

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

v.

JAMES HOWARD GELSTON, JR. (01)

No. 4:20-MJ-583

CRIMINAL COMPLAINT

I, the undersigned Complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

On or about August 4, 2020, **James Howard Gelston, Jr.**, the defendant, knowingly transported any visual depiction using any means or facility of interstate or foreign commerce, including by computer, knowing the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct.

Specifically, **Gelston** utilized the internet and an email account to transport the following image:

File Name	File Description
sgl 17.jpg	An image file described as a collage comprised of four different child pornography images. In one of the images, a prepubescent female child has an adult male penis in her mouth.

In violation of 18 U.S.C. § 2252(a)(1).

I further state I am a Special Agent of the United States Department of Homeland Security, Homeland Security Investigations (HSI), and that this complaint is based on the following facts gathered through an investigation I have conducted, my training and experience, and information provided to me by the Arlington Police Department.

INTRODUCTION

1. I have been employed as a Special Agent of the United States Department of Homeland Security, Homeland Security Investigations (HSI), since October 2009. I am a graduate of the Criminal Investigator Training Program and the U.S. Immigration and Customs Enforcement Special Agent Training Academy. As a result of my employment with HSI, my duties include, but are not limited to, the investigation and enforcement of Titles 8, 18, 19, 21 and 31 of the United States Code. I am an “investigative or law enforcement officer of the United States” within the meaning defined in 18 U.S.C. § 2510(7), in that I am an agent of the United States authorized by law to conduct investigations of, and make arrests for, federal offenses.

2. I am currently assigned to the HSI Dallas Field Office, Child Exploitation Group, where I investigate criminal violations relating to the sexual exploitation of children, including the illegal production, distribution, transportation, receipt and possession of child pornography, in violation of 18 U.S.C. §§ 2251, 2252 and 2252A. Based on my training and experience, I am aware that it is a violation of 18 U.S.C. § 2252(a)(1) for an individual to transport child pornography using any means or facility of interstate commerce, including by computer.

OVERVIEW OF INVESTIGATION

3. On or about August 7, 2020, Oath, Incorporated (hereinafter, “Oath”), the company that owns and handles legal process for Yahoo and AOL online services, filed a CyberTipline Report (hereinafter, “Cybertip”) with the National Center for Missing and

Exploited Children (NCMEC)¹. In the Cybertip, Oath reported that between September 23, 2019 and October 4, 2020, the user of email account gelst8@aol.com sent emails to his own email account using AOL's email service. The emails had attachments containing approximately 26 images of suspected child pornography. When reporting this account to NCMEC, Oath included the following subscriber information:

Name: **Jim Gelston**
 Date of Birth: 2/18/1963
 Phone: 682-330-[redacted] (verified 6/5/2019)
 Phone: 817-460-[redacted] (verified 2/2/2019)

4. In the Cybertip, Oath reported that an employee reviewed the images flagged as suspected child pornography. I have reviewed the specific images reported by Oath; one image file which was uploaded on August 4, 2020, was a collage comprised of four different child pornography images. Two of those images are described as follows:

File Name	File Description
sgl 17.jpg	<ol style="list-style-type: none"> 1. In one of the images in the collage, a prepubescent female child has an adult male penis in her mouth. 2. A second image within the collage of child pornography contains a nude prepubescent female child with an adult male penis penetrating her vagina.

Based on my training and experience, these images meet the federal definition of child pornography found in 18 U.S.C. § 2256.

¹ NCMEC serves as a national clearinghouse that collects, gathers, analyzes and reports information regarding missing and sexually exploited children for private companies and law enforcement.

5. After discovering the user of gelst8@aol.com used the account to upload child pornography, Oath closed the AOL account. On or about August 5, 2020, approximately two hours after the gelst8@aol.com account was disabled, an individual opened email account gelst9@aol.com. In the Cybertip, Oath reported the following subscriber information for the gelst9@aol.com account:

Name: **Jim Gelston**
Date of Birth: [redacted]-1963
Phone: 682-330-[redacted] (verified 8/6/2020)

6. In the Cybertip, Oath provided three internet protocol (IP) addresses used to recently access both the gelst8@aol.com and gelst9@aol.com accounts. Each of these IP addresses were IPv6² addresses that began with the alphanumeric identifier “2605:6000:1517:ac4.” Research into these IP addresses indicated they were owned by Spectrum (doing business as Charter Communications) and resolved to the Arlington, Texas area. Based in part on this information, the Cybertip was forwarded to the Arlington Police Department (APD) for investigation.

7. On August 11, 2020, APD served a subpoena on Charter Communications for subscriber information relating to the customer(s) assigned the IP addresses used to access the gelst8@aol.com and gelst9@aol.com accounts. On or about August 15, 2020, Charter Communications complied with the subpoena, and reported the subscriber as **Jim Gelston**, 1531 [redacted], Arlington, Texas.

² IP version 6, or “IPv6”, is the most recent IP address standard, which was developed to address the impending shortage of unique IPv4 (traditional) IP addresses. In short, available IPv4 addresses were near exhaustion, so network engineers developed a new IP address version for network communication intended to eventually replace IPv4.

8. APD conducted research into **Gelston**, learning that he is a registered sex offender in the State of Texas, and last verified his information with APD on January 28, 2020. **Gelston's** sex offender registry indicates he provided the following information to law enforcement:

Date of Birth: [redacted] 1963
Address: 1531 [redacted], Arlington, Texas
Email: gelst8@aol.com
Phone Numbers: 682-330-[redacted]; 817-460-[redacted]


9. On August 20, 2020, APD executed a search warrant at **Gelston's** residence in Arlington. During a post-*Miranda* interview, **Gelston** claimed ownership of the gelst8@aol.com account, and admitted to creating collages using different images depicting child pornography. Within an Apple iPhone seized from **Gelston's** vehicle, investigators located files depicting child pornography, including an image that visually appears to be one of the images used to create the collage referenced on page 1 of this affidavit. During the interview, an APD detective showed **Gelston** this collage, and **Gelston** advised that investigators would not find that image on his devices because he deleted it and used the images to create another collage. During the search of **Gelston's** residence, APD also located a folder containing printed images depicting child pornography, and many of the images are described as photo collages like the one uploaded using **Gelston's** AOL account.

10. Based on my training and experience, I am aware that use of AOL email services, including uploading digital files, requires use of the internet, a means and facility of interstate and/or foreign commerce.

Accordingly, **Gelston** used a means and facility of interstate and/or foreign commerce when he transported child pornography using his gelst8@aol.com email account.

CONCLUSION

11. Based on the facts set forth in this affidavit, I respectfully submit there is probable to believe that on or about August 4, 2020, **James Howard Gelston, Jr.** knowingly transported any visual depiction of a minor engaged in sexually explicit activity, using any means or facility of interstate and/or foreign commerce, in violation of 18 U.S.C. § 2252(a)(1).


Heidi R. Browder, Special Agent
Homeland Security Investigations

Sworn to me, over the telephone or other electronic means, and signed by me pursuant to Fed.R.Crim.P.4.1 on this 3rd day of September 2020, at 2:16 p.m., in Fort Worth, Texas.


JEFFREY L. CURETON
United States Magistrate Judge